



160 St. Ronan Street, New Haven, CT 06511-2390 (203) 865-0587 FAX (203) 865-4997

Connecticut State Medical Society Testimony on
Senate Bill 641 An Act Concerning The Statute of Limitations for Medical
Malpractice Actions with Respect to Acquired Brain Injury
and
House Bill 6577 An Act Concerning the Tolling of the Statue of Limitations For
Negligence Action By a Minor
Presented to the Judiciary Committee
March 20, 2009

Senator McDonald, Representative Lawlor and members of the Judiciary Committee, on behalf of our over 7,000 members of the Connecticut State Medical Society (CSMS), thank you for the opportunity to submit this testimony to you today on **Senate Bill 641 An Act Concerning The Statue of Limitations for Medical Malpractice Actions with Respect to Acquired Brain Injury**. CSMS opposes Senate Bill 641 that creates an exception and extends the statute of limitation for patients with acquired brain injuries.

Brain injuries are very complex medical conditions. Many have symptoms that are present in multiple conditions and diagnosis can run a wide spectrum of medical prognosis. Extending the statute of limitations for these injuries and providing a clear exemption for conditions often without a clear diagnosis will open the proverbial Pandora's Box. For example, when treating patient who may have a post traumatic symptoms like our soldiers returning home, the treatment to diagnose and stabilize the conditions require significant time to provided all the necessary psychological testing a or nuerological exams needed to make the correct diagnosis and help the patient recover. Passage of this legislation could have a chilling effect on access to services not only for patients potentially suffering from acquired brain injuries, but also, and more specifically, on the increasing number of veteran's returning to our state with disorders and traumas received while serving our country because of how medical care is presently provided.

House Bill 6577 AN Act Concerning the Tolling of the Statue of Limitations For Negligence Action By a Minor will significantly increase the cost of medical liability insurance premiums for physicians in Connecticut in particular OB-GYNs, pediatric specialists and anesthesiologists. This legislature has struggled in past sessions to take actions to increase the availability and affordability of medical liability in Connecticut. However, although we currently await a review by the Department of Insurance as to the actuarial impact of certain reforms, medical students, residents and established physicians continue to indicate that the medical liability climate in Connecticut continues to be a major factor when determine whether to establish or continue practicing in the state. The 2008 Workforce Study clearly and articulately presented the concerns regarding medical

liability by physicians of Connecticut, as well as the specific impact on the availability of certain medical specialists and subspecialists and the limitations on access to certain high risk medical care services, as well as access for certain high risk patients. Changes to our tort statutes such as the expansion of the statute of limitation in HB 6577 will only increase our difficulties in recruiting and retaining physicians and lead to further limitations on access to medical services in Connecticut.

Furthermore, we offer that the language of the **proposed legislation is ambiguous** and could lead to a far more detrimental impact than estimated. For example: Does it apply to all claims filed after October 1, 2009 or does it apply only to occurrences after October 1, 2009? If the bill applies to all claims filed after October 1, 2009, it would allow claims to be brought that currently would be prohibited by statute, **requiring insurers to re-open closed claim years.**

It's important to note that the American Medical Association (AMA) continues to classify **Connecticut as one of 17 states in the nation still in crisis.**

Thank you for the opportunity to share these comments with you. We welcome any questions or comments.